

Docket No. KBRO.P0100USA



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re **PATENT** application of:

Applicants: Lawrence P. LaFalce

Application No.: 10/764,332

For: GOLF COURSE

Filing Date: January 23, 2004

Examiner: Mark S. Graham

Art Unit: 3711

Confirmation No.: 5770

AMENDED APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This amended appeal brief is being submitted in connection with the appeal of the above-identified application.

I. REAL PARTY IN INTEREST

The real party in interest in the present appeal is Golf Squared, LLC, the assignee of the present application.

II. RELATED APPEALS AND INTERFERENCES

Appellant's legal representatives, and/or the assignee of the present application are unaware of any appeals or interferences which will be directly affected by, or which will have a bearing on the Board's decision in the pending appeal.

III. STATUS OF AMENDMENTS

A first reply to the final Office Action was filed on May 4, 2005 and, in this reply, claim amendments were proposed, but not entered. In a second response to the final Office Action, amendments to claims 14 and 16 were proposed and entered. In an amendment filed after the Notice of Appeal, an amendment to claim 16 (to place it in an independent format) and the cancellation of claims 1, 3-14 and 21 was proposed and entered.

IV. STATUS OF CLAIMS

Claims 16-20 are pending in the application, stand finally rejected, and are the subject of this appeal. Claims 1-15 and 21 are cancelled. A clean listing of the claims is attached as the Claims Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A golf course commonly comprising a series (*e.g.*, eighteen) of tee-areas each containing a golf tee and a series (*e.g.*, eighteen) of green-areas each containing a golf hole. The tee-areas and the green-areas are separated by fairways. When driving a golf ball from a tee-area to the corresponding green area, a fairway path can be defined therebetween. Accordingly, the golf course can be viewed as comprising a sequential series of fairway paths, each path being defined by the route between a particular tee-area and its corresponding target green-area. When playing a game of golf, the golfer starts at the first tee-area and sequentially travels through the fairway paths to reach the last green-area (*e.g.*, the eighteenth hole). Golfers typically enjoy playing at different courses during a golfing season as the challenge of changing courses adds to the enjoyment of the game.

A golf course 100 according to the present invention comprises eighteen tee-areas T(1) - T(18) and eighteen green-areas G(1) - G(18). The golf course 100 occupies a piece of land which may be viewed as having a central region 102 and a perimeter region 104. The central region 102 is a non-course area (*i.e.*, does not form

part of the golf course 100). Practice greens 106, parking lots 108, driving ranges 110, club houses 112, and/or tennis courts 114 may be located in the central region 104.¹

(See Figure 1, below.)

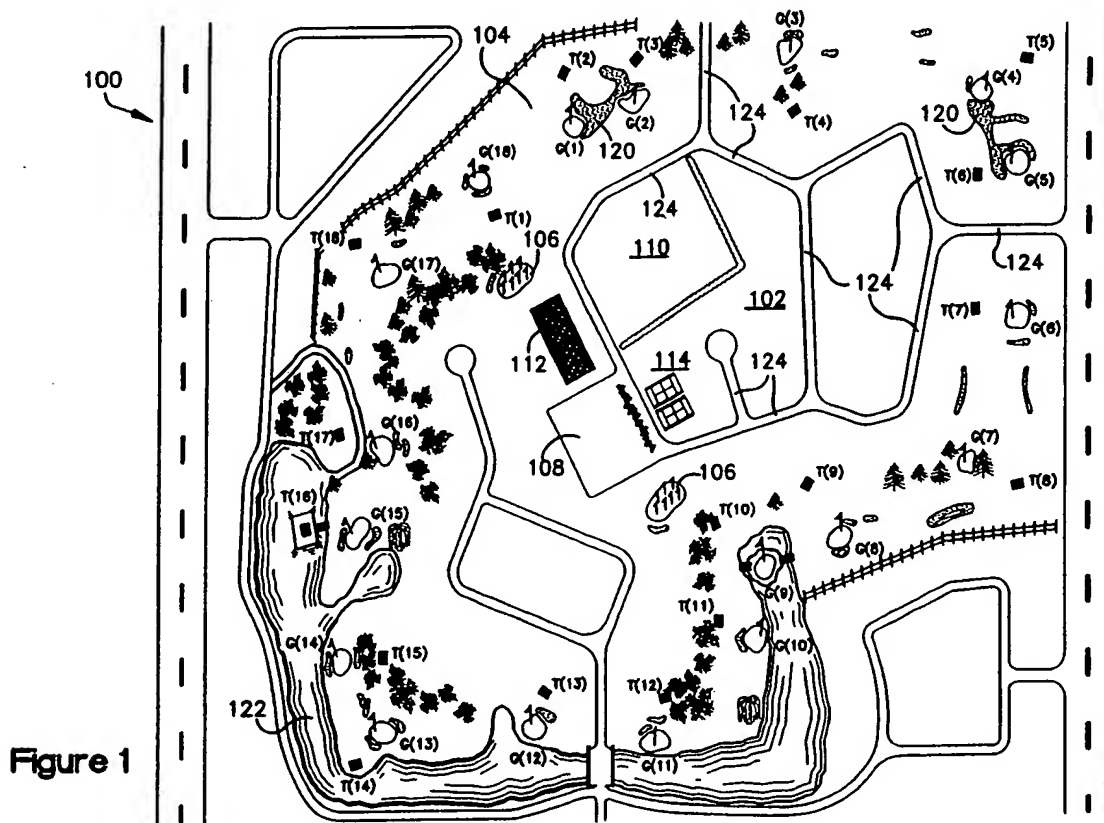


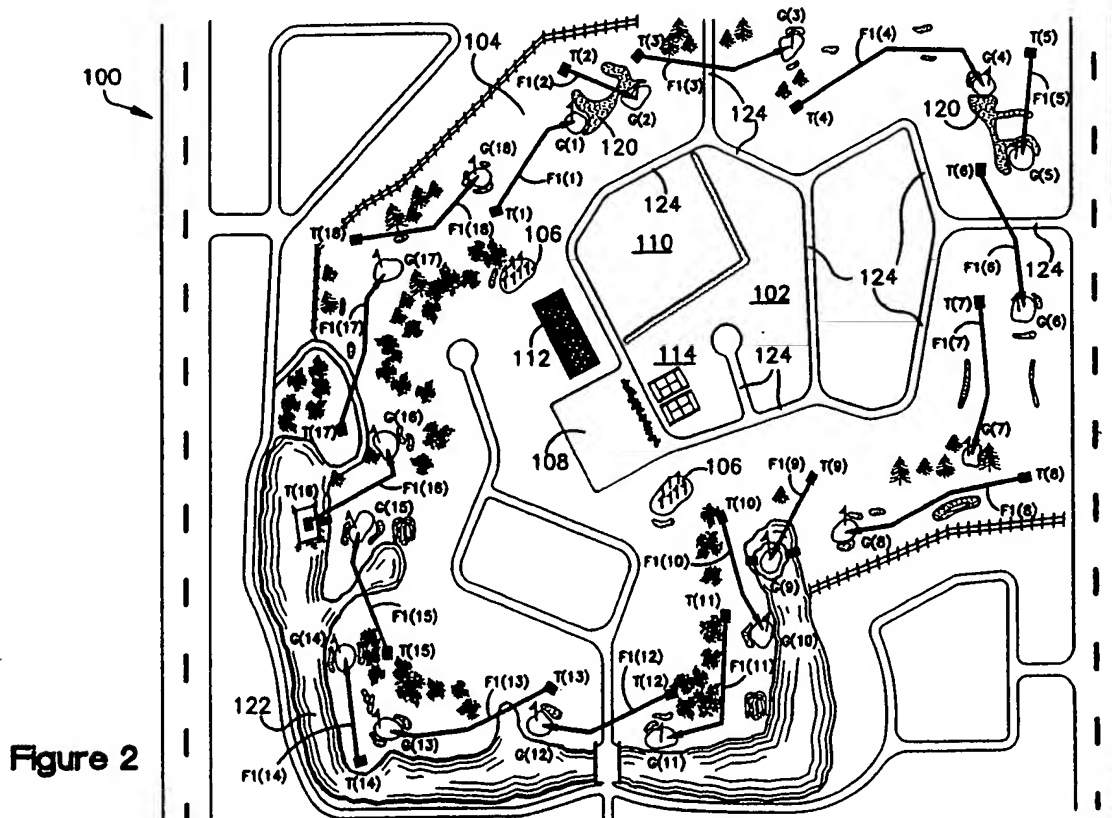
Figure 1

The tee-areas T(1) - T(18) and the green-areas G(1) - G(18) occupy the perimeter region 104. Hazards and stake-out boundaries may also occupy the perimeter region 104 to enhance the character and/or the complexity of the game. For example, sand traps 120 are positioned about green-areas G(1) and G(2), and green-

1. Specification, page 3, lines 4 -16.

areas G(4) and G(5) and waterway 122 borders green-areas G(10) through G(16). Green-area G(9) is located on an island in the waterway 122 and tee-area T(16) is located on another island in the waterway 122. Roads 124 into the central region 102 can also pass through the perimeter region 104.²

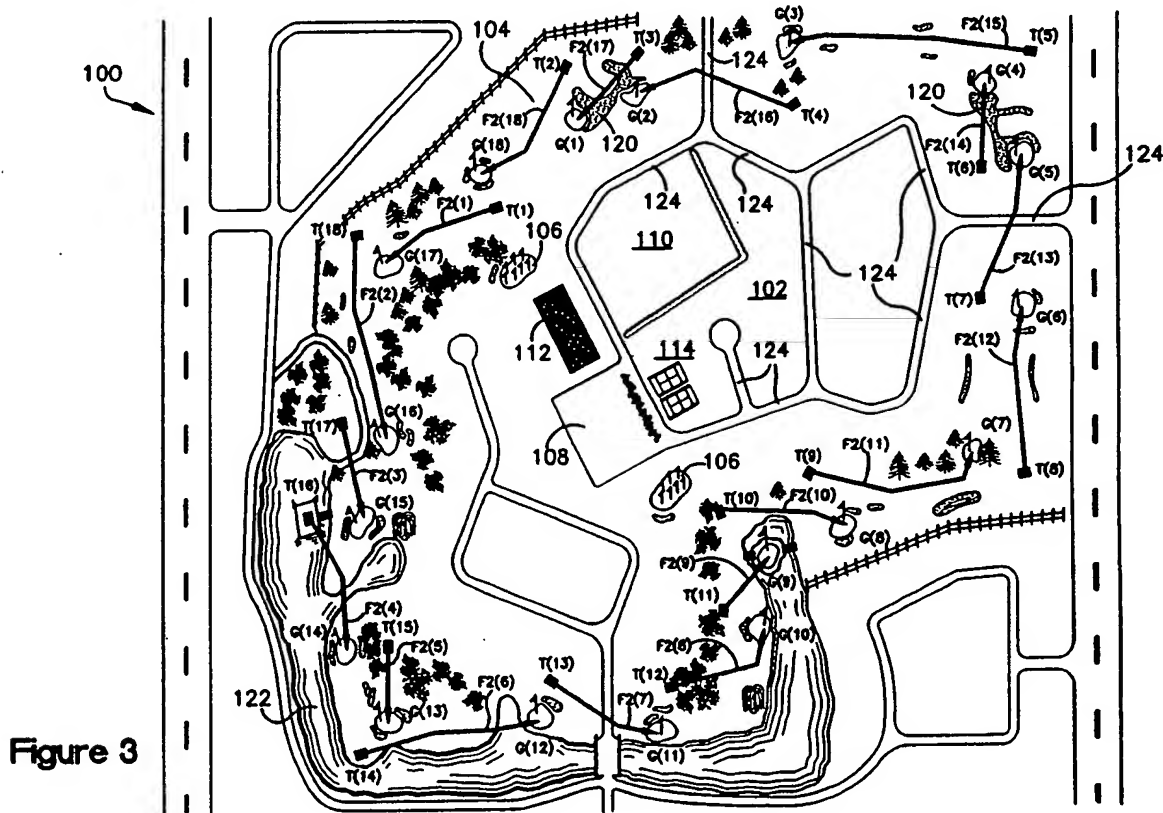
A first set of sequential fairway paths F1(1) - F1(18) can be defined between each tee-area and a target hole-area in the clockwise direction. Specifically, the first set of fairway paths would sequentially comprise the paths defined by T(1) to G(1), T(2) to G(2), T(3) to G(3), T(4) to G(4), T(5) to G(5), T(6) to G(6), T(7) to G(7), T(8) to G(8), T(9) to G(9), T(10) to G(10), T(11) to G(11), T(12) to G(12), T(13) to G(13), T(14) to G(14), T(15) to G(15), T(16) to G(16), T(17) to G(17), and T(18) to G(18).³ (See Figure 2, below.)



2. Specification, page 3, lines 17-24.

3. Specification, page 4, lines 10-16.

A second set of sequential fairway paths F2(1) - F2(18) can be defined between each tee-area and a target hole-area in the counterclockwise direction. Specifically, the second set of fairway paths would sequentially comprise the paths defined T(1) to G(17), T(18) to G(16), T(17) to G(15), T(16) to G(14), T(15) to G(13), T(14) to G(12), T(13) to G(11), T(12) to G(10), T(11) to G(9), T(10) to G(8), T(9) to G(7), T(8) to G(6), T(7) to G(5), T(6) to G(4), T(5) to G(3), T(4) to G(2), T(3) to G(1), and T(2) to G(18).⁴ (See Figure 3, below.)



Two sets of sequential fairway paths can be defined depending on whether the golf course 100 is being played in a first (e.g., clockwise) direction or a second (e.g. counterclockwise) direction. In this manner, two different games of golf can be played on the same golf course at different times. Thus, a golfer could play one game of golf on a first day and then return the following day to play a completely different game of

4. Specification, page 4, lines 16 - 22.

golf on the same golf course. The golf club (or other establishment) could, for example, designate certain times of the day, certain days of the week or month, or certain weeks of the season when the golf course 100 is played in the first direction (see Figure 2, above), with the golf course 100 being played in the second direction (see Figure 3, above) during the remaining time periods.

A completely different golf game is provided depending upon whether one is playing in the first direction or the second direction. For example, in Figure 2 the fairway between the eighteen tee-area T(18) and the eighteenth green area G(18) occupies approximately the same section of land as the fairway between the first tee-area T(1) and the seventeenth green area G(17) (Figure 3). However, when playing in the first direction (Figure 2), the shot from the eighteen tee-area T(18) to the eighteenth green area G(18) is somewhat complicated (e.g., par 5). At the same time, when playing in the second direction (Figure 3), the shot from the first tee-area T(1) to the seventeenth hole G(17) would be relatively simply (e.g., par 3). The "signature hole" for the golf course 100 could be one hole (e.g., G(17)) when the game is being played in the first direction (e.g., clockwise) and could be another hole (e.g., G(12)) when the game is being played in the second direction (e.g., counterclockwise).⁵

Another golf course 200 according to the present invention comprises eighteen tee-areas T(1) - T(18) and eighteen green-areas G(1) - G(18). The golf course 200 occupies a piece of land which may be viewed as having a central region 202 and a perimeter region 204. The central region 202 is a non-course area (i.e., does not form part of the golf course 200) and is shown with a club house 212. The tee-areas T(1) - T(18) and the green-areas G(1) - G(18) occupy the perimeter region 104, which surrounds the central non-course region 202 in a horseshoe-like shape. In this manner, the road 224 to the clubhouse 212 need not intersect the golf course 200. Hazards and stake-out boundaries may also occupy the perimeter region 204 to enhance the character and/or the complexity of the game. (See Figure 4, below.)

5. Specification, page 5, lines 5 - 17.

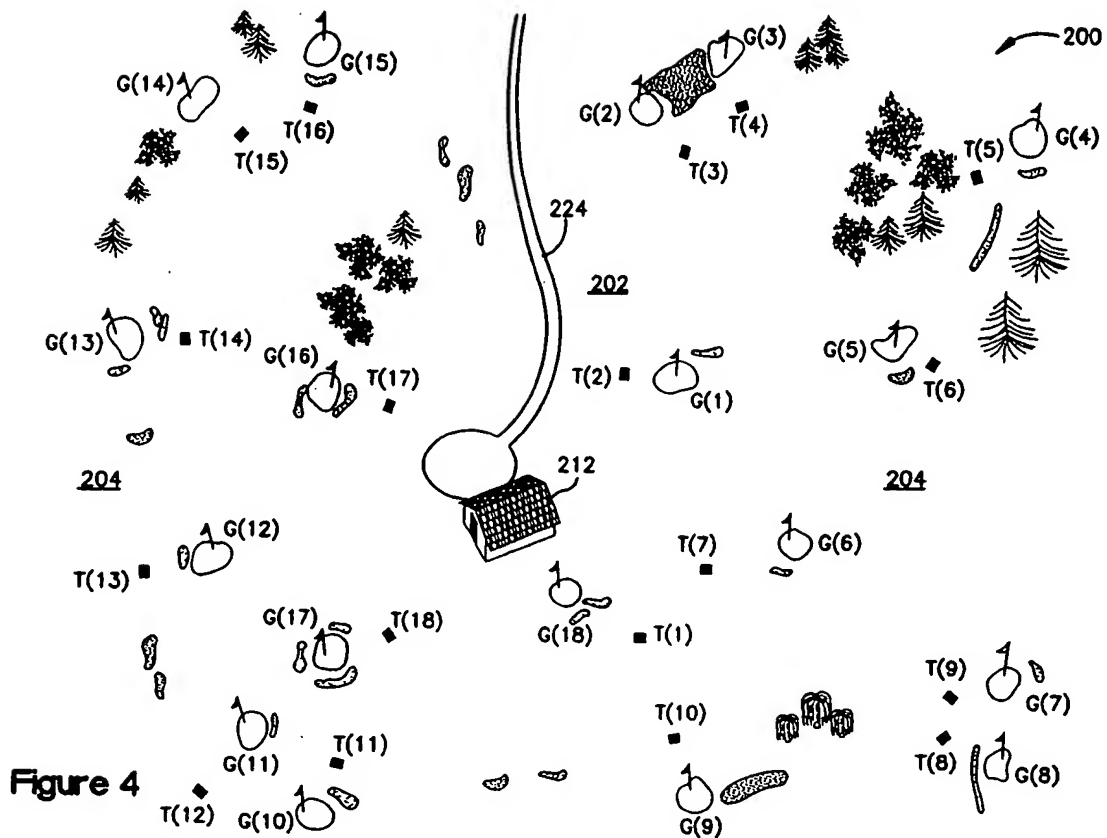


Figure 4

A first set of sequential fairway paths F1(1) - F1(18) can be defined between each tee-area and a target hole-area in the clockwise direction. Specifically, the first set of fairway paths would sequentially comprise the paths defined by T(1) to G(1), T(2) to G(2), T(3) to G(3), T(4) to G(4), T(5) to G(5), T(6) to G(6), T(7) to G(7), T(8) to G(8), T(9) to G(9), T(10) to G(10), T(11) to G(11), T(12) to G(12), T(13) to G(13), T(14) to G(14), T(15) to G(15), T(16) to G(16), T(17) to G(17), and T(18) to G(18).⁶ (See Figure 5, below.)

6. Specification, page 6, lines 3 - 8.

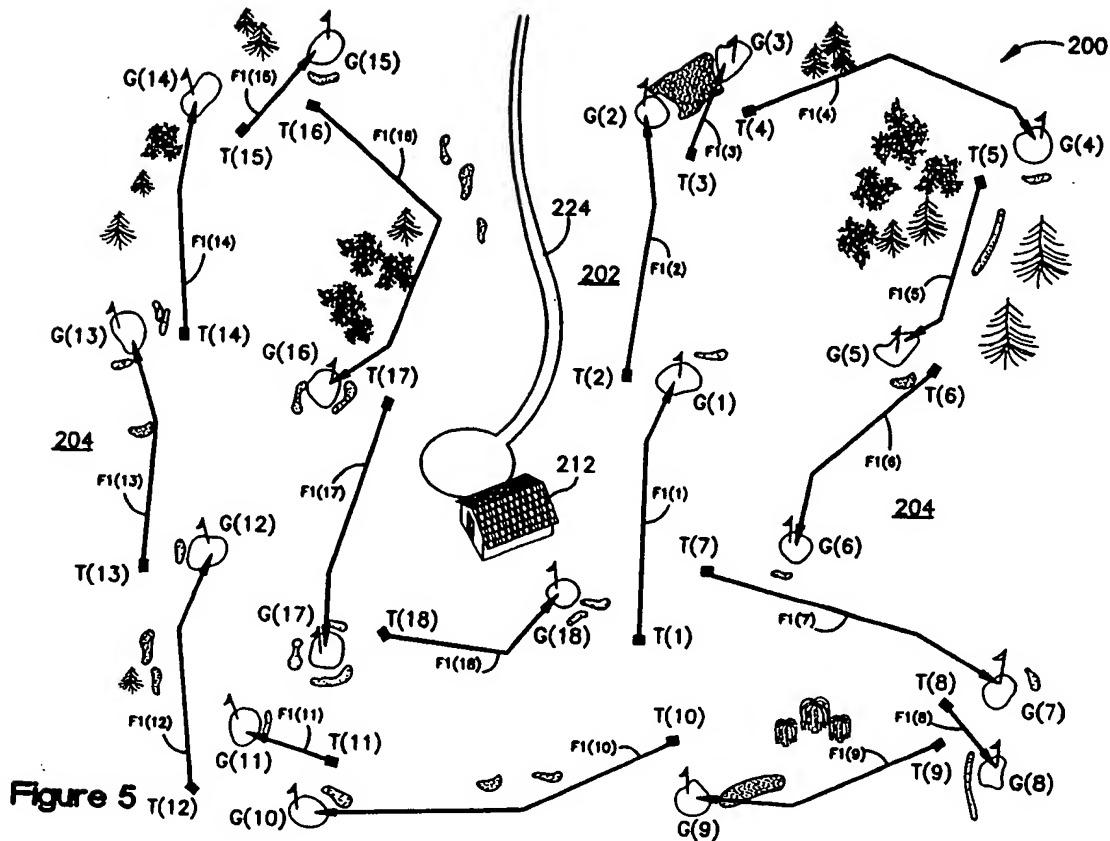


Figure 5

A second set of sequential fairway paths F2(1) - F2(18) can be defined between each tee-area and a target hole-area in the counterclockwise direction. Specifically, as shown in Figure 6, the second set of fairway paths would sequentially comprise the paths defined T(1) to G(17), T(18) to G(16), T(17) to G(15), T(16) to G(14), T(15) to G(13), T(14) to G(12), T(13) to G(11), T(12) to G(10), T(11) to G(9), T(10) to G(8), T(8) to G(7), T(9) to G(6), T(7) to G(5), T(6) to G(4), T(5) to G(3), T(4) to G(2), T(3) to G(1), and T(2) to G(18). Thus, two sets of sequential fairway paths can be defined depending on whether the golf course 200 is being played in a first (e.g., clockwise) direction or a second (e.g. counterclockwise) direction.⁷ (See Figure 6, below.)

7. Specification, page 6, lines 9 - 16.

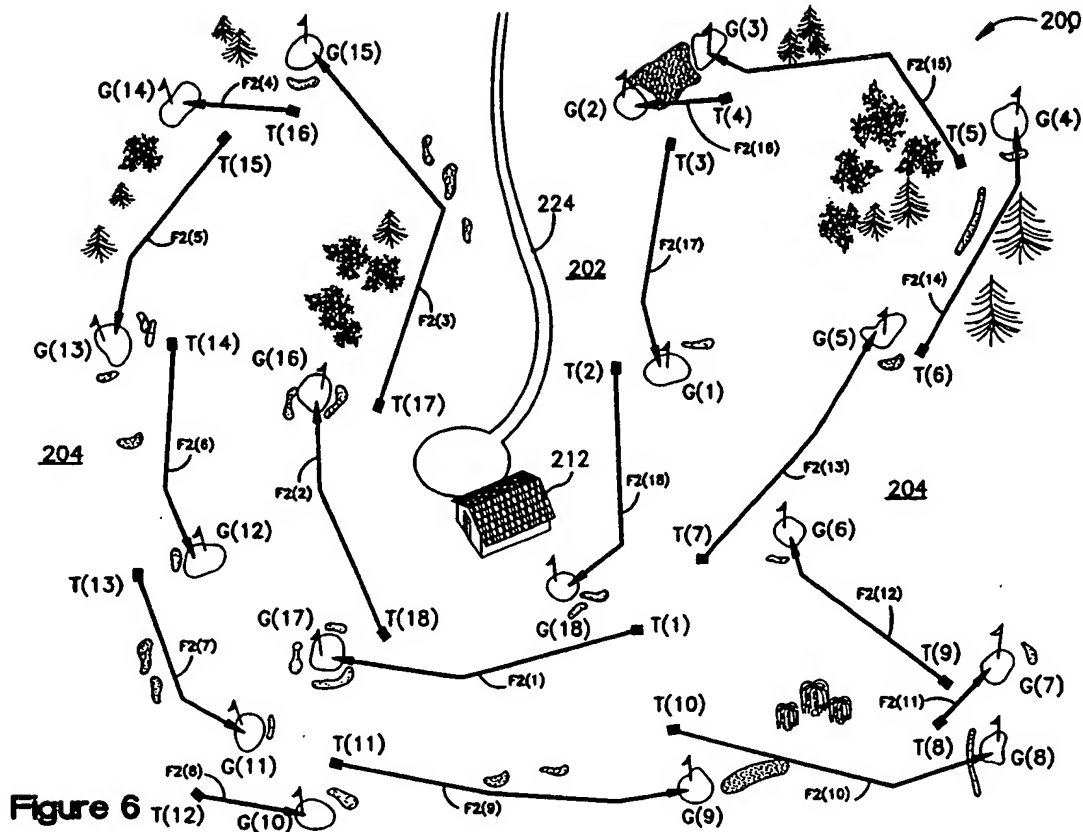


Figure 6

In the illustrated golf courses 100 and 200, the first tee-area T(1) can be the initial tee-area and the eighteenth hole-area G(18) can be the final hole-area regardless of whether the first golf game is being played in the first direction or the second golf game is being played in the second direction.⁸

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 16-18 are patentable under 35 U.S.C. §102 over US 6036606 to Dumas.

B. Whether claims 19 and 20 are patentable under 35 U.S.C. §103 over US 6036606 to Dumas in view of JP 20141 to Kokai.

8. Specification, page 6, lines 17 - 20.

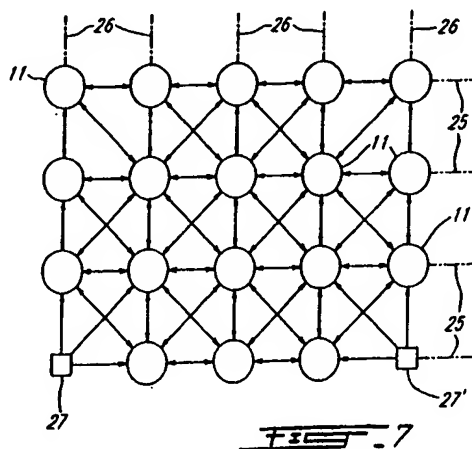
VII. ARGUMENT

For the following reasons, claims 16 - 20 are believed to be patentable over the applied art.

A. The Rejection of claims 16-18 under §102 over U.S. Patent No. 6,036,606 to Dumas

i. Claims 16-18

Claims 16-18 stand finally rejected as being anticipated by US 6036606 to Dumas. Dumas discloses a golf course having an 18-hole putting green area arrangement that can produce 100 golf links with 52 fairways and that can generate in excess of 8,000 different sequential arrangements of golf links. The golf course has a web pattern comprised of a first group of four spaced-apart substantially parallel axes 25 and a second group of five spaced-apart substantially parallel transverse axes 26. The putting green areas are oriented in relation to the crossings of each of the groups of axes, and the starting tee area 27 is aligned with a corner interception of outside axes 25 and 26. (See Dumas Figure 7, below.)



Claims 16 - 18 specify that the golf course comprises eighteen tee-areas T(1) - T(18) and eighteen green-areas G(1) - G(18) arranged in a perimeter region around a central non-course region. The Examiner contends that "to players playing a perimeter of Dumas's course the central area is a non-course region." However, if these players

were to play eighteen holes of golf, the central area could not be a non-course area. The Examiner also contends that "the small areas" between the Dumas interior fairways are non-course regions surrounded by the tee/green areas constituting a course at the perimeter of Dumas' arrangement. However, if the Dumas course is played clockwise and/or counterclockwise (as specified by claims 16 - 18), these "small area" would be considered part of the course and would not include visible (or invisible) boundaries separating them from the course.

ii. Claim 17

Claim 17 additionally sets forth that the perimeter region surrounds the central non-course region in a donut-like manner and claim 18 additionally sets forth that the perimeter region surrounds the central non-course region in a horseshoe-like manner. If the Dumas course is played clockwise and/or counterclockwise, the course area could not, and does not, surround any central region (much less of non-course region) in a donut-like or horseshoe-like manner.

B. The Rejection of Claims 19-20 under §103 over U.S. Patent No. 6,036,606 to Dumas in view of JP 20141 to Kokai

i. Claims 19 and 20

Claims 19 and 20 stand finally rejected as being obvious over US 6036606 to Dumas in view of JP 20141 to Kokai. These claims set forth that a club house, a parking lot, a practice green, and/or a tennis court are located on the central non-course area. The Examiner contends that it would have been obvious, in view of Kokai, to locate a clubhouse in a central non-course area. However, a club house, a parking lot, a practice green and/or a tennis court would not fit into the "the small areas" between the Dumas interior fairways. Whatever Kokai's teaching may be on club house placement, a Dumas-like eighteen-hole golf course, that is played clockwise and counterclockwise, cannot accommodate a central non-course area. Moreover, any modification to the Dumas course that would include a central club house would violate the objective of the Dumas invention to have a "predetermined web pattern."

ii. Claim 20

Claim 20 further specifies that the first tee-area T(1) is the initial tee-area and the last green-area G(18) is the final green-area regardless of whether the first golf game is being played in the first direction or the second golf game is being played in the second direction. In contrast, Dumas also expressly teaches locating its starting tee area, its putting green area at predetermined positions with respect to one another when it is desirable that they be close to a golf club building to provide services to the golf players.⁹

CONCLUSION

In view of the foregoing, appellant respectfully submits that the claims are patentable over the applied art and that the final rejection should be reversed. This brief is being submitted in triplicate along with payment by credit card (Form PTO-2038) in the amount of \$250.00 to cover the fee for filing this brief in support of the appeal.¹⁰

VIII. CLAIMS APPENDIX

Attached hereto.

IX. EVIDENCE APPENDIX

An evidence appendix is attached, but identifies no evidence.

9. JP 20141 to Kokai does nothing to overcome this shortcoming in the Dumas reference.

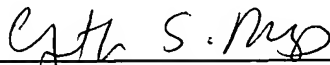
10. Should a petition for an Extension of Time be necessary for the timely filing of this brief (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988, Order No. KBRO.P0100USA.

X. RELATED PROCEEDINGS

A related proceedings appendix is attached, but identifies no proceedings.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP



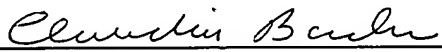
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Date: August 21, 2006



Claudia Bader

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VIII. CLAIMS APPENDIX

16. A golf course comprising a series of tee-areas T(1) - T(N), each containing a golf tee and a series of green-areas G(1) - G(N), each containing a golf hole;

the tee-areas and the green-areas defining a first set of sequential fairway paths F1(1) - F1(N) between each tee-area and a target green-area in a first direction; and

the tee-areas and the green-areas also defining a second set of sequential fairway paths F2(1) - F2(N) between each tee-area and a target green-area in a second opposite direction;

wherein a first golf game may be played along the first set of fairway paths and a second golf game may be played along the second set of fairway paths;

wherein the first direction is clockwise and the second direction is counterclockwise.

wherein the tee-areas comprise eighteen tee-areas T(1) - T(18), the green-areas comprise eighteen green-areas G(1) - G(18);

wherein the first set of fairway paths comprise the paths defined by T(1) to G(1), T(2) to G(2), T(3) to G(3), T(4) to G(4), T(5) to G(5), T(6) to G(6), T(7) to G(7), T(8) to G(8), T(9) to G(9), T(10) to G(10), T(11) to G(11), T(12) to G(12), T(13) to G(13), T(14) to G(14), T(15) to G(15), T(16) to G(16), T(17) to G(17), and T(18) to G(18);

wherein the second set of fairway paths comprise the paths defined by T(1) to G(17), T(18) to G(16), T(17) to G(15), T(16) to G(14), T(15) to G(13), T(14) to G(12), T(13) to G(11), T(12) to G(10), T(11) to G(9), T(10) to G(8), T(9) to G(7), T(8) to G(6), T(7) to G(5), T(6) to G(4), T(5) to G(3), T(4) to G(2), T(3) to G(1), and T(2) to G(18);

wherein the tee-areas T(1) - T(18) and the green-areas G(1) - G(18) are arranged in a perimeter region around a central non-course region.

17. A golf course as set forth in claim 16, wherein the perimeter region surrounds the central non-course region in a donut-like manner.

18. A golf course as set forth in claim 16, wherein the perimeter region surrounds the central non-course region in a horseshoe-like manner.

19. A golf course as set forth in claim 16, wherein a club house, a parking lot, a practice green, and/or a tennis court are located on the central non-course area.

20. A golf course as set forth in claim 19, wherein the first tee-area T(1) is the initial tee-area and the last green-area G(18) is the final green-area regardless of whether the first golf game is being played in the first direction or the second golf game is being played in the second direction.

* * *

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS

None.

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